

HOUSE No. 3608

The Commonwealth of Massachusetts

PRESENTED BY:

Geoff Diehl

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act establishing a tax amnesty program.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Geoff Diehl</i>	<i>7th Plymouth</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Nicholas A. Boldyga</i>	<i>3rd Hampden</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>

HOUSE No. 3608

By Mr. Diehl of Whitman, a petition (subject to Joint Rule 12) of Geoff Diehl and others for legislation to establish a tax amnesty program. Revenue.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act establishing a tax amnesty program.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Notwithstanding any general or special law to the contrary, the
2 commissioner of revenue shall establish a tax amnesty program during which all penalties that
3 could be assessed by the commissioner shall be waived without the need for any showing by the
4 taxpayer of reasonable cause or the absence of willful neglect for the failure of the taxpayer to:
5 (i) timely file any proper return for any tax type and for any tax period; (ii) file proper returns
6 which report the full amount of the taxpayer's liability for any tax type and for any tax period;
7 (iii) timely pay any tax liability; or (iv) pay the proper amount of any required estimated payment
8 toward a tax liability. The waiver of a taxpayer's liability under this section shall apply if the
9 taxpayer files returns, makes payments as required by the commissioner or otherwise comes into
10 compliance with the tax laws of the commonwealth as required by the commissioner pursuant to
11 the tax amnesty program. The scope of the program, including the particular tax types and
12 periods covered, including any limited look-back period for unfiled returns, shall be determined
13 by the commissioner; provided, however, the commissioner shall include, but not be limited to,
14 the following tax types within the scope: sales and use tax, sales tax on telecommunications
15 services, meals tax, meals tax local option, materialman sales tax, withholding income,
16 performer withholding, pass-through entity withholding, lottery annuity withholding, room
17 occupancy excise, room occupancy excise local option, convention center financing fees on
18 room occupancy in Boston, Cambridge, Chicopee, Springfield, West Springfield, and Worcester,
19 convention center financing surcharge for sightseeing tours, convention center financing
20 surcharge on vehicle rentals in Boston, convention center financing surcharge on parking in
21 Boston, Springfield, and Worcester, deeds excise, cigarette excise, cigars and smoking tobacco
22 excise, club alcohol beverage excise, gasoline excise, special fuels excise, special fuels excise
23 local option, and boat and recreational vehicles sales tax.

24 The amnesty program shall be established for 2 consecutive months within fiscal year
25 2014 to be determined by the commissioner, such period to expire not later than June 30, 2014,
26 and all required payments shall be made on or before June 30, 2014, in order for the amnesty to
27 apply. If a taxpayer fails to pay the full liability before June 30, 2014, the commissioner shall
28 retain any payments made and shall apply those payments against the outstanding liability, and
29 the provisions of the tax amnesty program, other than the additional penalty authorized by
30 section 2, shall not apply.

31 The commissioner's authority to waive penalties during the amnesty period shall not
32 apply to any taxpayer who, before the start date of the amnesty program selected by the
33 commissioner, was the subject of a tax-related criminal investigation or prosecution. The
34 amnesty program shall not authorize the waiver of interest or any amount treated as interest. The
35 commissioner may offer tax amnesty to those taxpayers who have either an unpaid self-assessed
36 liability or who have been assessed a tax liability, whether before or after the filing of a return,
37 which assessed liability remains unpaid.

38 To the extent that a taxpayer within the scope of the amnesty program as determined by
39 the commissioner and wishing to participate in the amnesty program has postponed the payment
40 of an assessment of tax, interest and penalty under the authority of subsection (e) of section 32 of
41 chapter 62C of the General Laws, the taxpayer shall waive in writing all rights under said
42 subsection (e) of said section 32 of said chapter 62C further delay the payment of the tax and
43 interest portions of the assessment. The tax and interest portions of the assessment shall be
44 payable in full from the date of the commissioner's notice of assessment. Upon payment by the
45 taxpayer of the tax and interest of the outstanding assessment, the commissioner shall waive all
46 penalties associated with that assessment. The taxpayer and the commissioner shall then proceed
47 with all administrative appeal rights that the taxpayer wishes to pursue with respect to the
48 assessment.

49 Amnesty shall not apply to those penalties which the commissioner would not have the
50 sole authority to waive including, but not limited to, fuel taxes administered under the
51 International Fuel Tax Agreement or under the local option portions of taxes or excises collected
52 for the benefit of cities, towns or state governmental authorities.

53 The commissioner shall maintain records of the amnesty provided under this section
54 including, but not limited to: (i) the number of taxpayers provided with amnesty; (ii) the types of
55 tax liability for which amnesty was provided and, for each type of liability, the amount of tax
56 liability collected and the amount of penalties foregone by virtue of the amnesty program; and
57 (iii) the total outstanding tax liability for amnesty-eligible taxpayers at the conclusion of the tax
58 amnesty program after the collection of all funds under this section. The commissioner shall file
59 a report detailing such information with the clerks of the house of representatives and the senate,
60 the joint committee on revenue, the house and senate committees on ways and means, the
61 minority leader of the house and the minority leader of the senate not later than September 1,

62 2014; provided, however, that such report shall not contain information sufficient to identify an
63 individual taxpayer or the amnesty that an individual taxpayer was provided under this section.

64 A taxpayer who is eligible for the amnesty program based upon the criteria established by
65 the commissioner and who fails to come forward under the tax amnesty program and make
66 payments before June 30, 2014 shall, in addition to all other penalties provided by chapter 62C
67 of the General Laws, be subject to an additional penalty not to exceed \$500 per taxpayer, which
68 shall be calculated and assessed according to rules determined by the commissioner and which
69 may be subject to de minimis or other exceptions that the commissioner may consider
70 appropriate. This penalty shall be subject to said chapter 62C and shall be added to and become
71 part of the tax due. The commissioner may waive the penalty provided by this subsection for
72 reasonable cause as provided in subsection (f) of section 33 of said chapter 62C.

73 SECTION 2. There shall be established and set up on the books of the commonwealth a
74 separate fund to be known as the Municipal Police Support Trust Fund to be used, without
75 appropriation, by the executive office of public safety and security for the purpose of funding
76 veteran, reserve and in-service training programs conducted by the municipal police training
77 committee under section 116 of chapter 6. One-third of the revenues received by the
78 commonwealth pursuant to section 90A of this act shall be deposited into the trust fund;
79 provided, the amount deposited is no more than \$10,000,000. All monies deposited into the fund
80 shall be expended exclusively for the purpose set forth in this section. No expenditure from said
81 fund shall cause said fund to be in deficiency at the close of a fiscal year.

82 SECTION 3. There shall be established and set up on the books of the commonwealth a
83 separate fund to be known as the Commonwealth Public Assistance Technological Innovation
84 Trust Fund to be used, without appropriation, by the executive office of health and human
85 services, in consultation with the department of transitional assistance and the office of
86 Medicaid, for the purposes of investing in technological innovation relating to the distribution of
87 and oversight over taxpayer funded public assistance. Fifty per cent of the monies within the
88 fund shall be expended on expediting the implementation of the integrated eligibility system
89 established pursuant to section 16 of chapter 6A and the establishment of an online payment
90 system administered by the department of transitional assistance, pursuant to section 26A of
91 chapter 18. The remaining 50 per cent of the monies shall be distributed as block grants for retail
92 establishments to invest in the technological capacity to sort out items prohibited for purchase
93 with electronic benefit transfer cards, or EBT cards, pursuant to sections 5I through 5J of chapter
94 18. For purposes of this section, a retail establishment shall be defined as any premises in which
95 the business of selling services or tangible personal property is conducted, or, in or from which
96 any retail sales are made, and employs no more than eight employees. One-third of the revenues
97 received by the commonwealth pursuant to section 90A of this act shall be deposited into the
98 trust fund; provided, the amount deposited is no more than \$10,000,000. All monies deposited
99 into the fund shall be expended exclusively for the purposes set forth in this section. No
100 expenditure from said fund shall cause said fund to be in deficiency at the close of a fiscal year.

101 SECTION 90D. Any remaining amount of revenues received by the commonwealth,
102 pursuant to section 90A of this act, after amounts made available in sections 90B and 90C of this
103 act, shall be deposited into the General Fund.”.